



May 16, 2022

Via email

Assistant General Counsel for Aviation  
Enforcement and Proceedings (C-70)  
U.S. Department of Transportation  
1200 New Jersey Avenue, S.E.  
Room W96-322  
Washington, DC 20590

Re: Application of Swoop Inc. ("**Swoop**") for an Equivalent Alternative Determination Concerning 14 C.F.R. §382.67 and §382.123

Dear Assistant General Counsel for Aviation:

Pursuant to 14 C.F.R. §382.10, Swoop Inc. respectfully requests that the Department of Transportation extend Swoop's current equivalent alternative determination ("EAD") that covers our Boeing 737-800 aircraft to also cover 737 Max aircraft being added to the Swoop fleet. The specific EADs address compliance with 14 C.F.R. § 382.67 (priority cabin stowage space for passenger folding wheelchairs) and 14 C.F.R. § 382.123 (in-cabin stowage of passenger wheelchairs and other assistive devices).

To date, Swoop Inc. has not received any complaints related to the EADs for our 737-800 aircraft. Further, under our parent company, The WestJet Group, our sister company WestJet has also been granted EADs for the Boeing 737 Max aircraft.

To the extent the Department determines Swoop Inc. is required to apply for a separate EAD, we request that the Department consider this letter such an application.

#### Background

1. Swoop Inc., a subsidiary of WestJet Airlines Ltd., has been granted a Foreign Air Carrier of Canada Permit, and has been authorized to engage in "[s]cheduled foreign air transportation of persons, property and mail from points behind Canada via Canada and intermediate points to any point or points in the United States and beyond; and

Charter foreign air transportation of persons, property, and mail between any point or points in Canada and a point or points in the United States, and between a point or points in the United States and any point or points in any third country or countries, provided that, except with respect to cargo charters, such services constitute part of a continuous operation, with or without a change of aircraft, that includes service to Canada for the purpose of carrying local traffic between Canada and the United States."

2. On November 9, 2021 Swoop was granted an Equivalent Alternative Determination (EAD) on an indefinite basis<sup>1</sup> concerning 14 CFR 382.67 and 382.123 which permits Swoop to use dedicated stowage space in the cargo compartment of 737-800 aircraft to stow two manual folding wheelchairs in lieu of stowage of passengers' manual wheelchairs.
3. Swoop is scheduled to begin operations to/from the United States in early June using six Boeing 737 MAX aircraft, an aircraft model that, like the 737-800, does not have an in-cabin priority stowage space for a passenger's manual folding wheelchair. Like our sister company, "WestJet", which has EAD approvals concerning 14 CFR 382.67 and 382.123 for the 737-800 and 737 MAX aircraft, Swoop is requesting similar consideration that the Department would permit this EAD to be extended to the Swoop 737 MAX aircraft, subject to the same policies and procedures in place to manage the transportation of manual folding wheelchairs in a priority stowage space within the cargo compartment of the Swoop 737-800 aircraft.
4. These 737-Max 8 aircraft are identical in configuration to the 737 MAX Aircraft used by our sister company "WestJet". Granting Swoop's request to apply the EAD on flights operated using the 737 MAX aircraft would ensure the consistent handling of manual folding wheelchairs on flights operated by any aircraft in the Swoop fleet. Just as we have dedicated space in the cargo compartment of our 737-800 aircraft, we will utilize a portion of the 737-800 Max cargo compartment as designated space for the stowage of up to two wheelchairs in lieu of an in-cabin priority space. Likewise, Swoop will: (i) utilize a protective cover manufactured to Swoop's requirements for wheelchairs stowed in the cargo compartment; (ii) secure the wheelchair horizontally to tie-downs in the cargo compartment, as appropriate; (iii) provide passengers with the flexibility to check their wheelchairs as close to the boarding gate as possible (iv) provide passengers with the flexibility to receive wheelchairs at the aircraft door upon arrival; and (v) implement safeguards in post-arrival procedures to ensure that wheelchairs are promptly removed from the cargo compartment. When wheelchairs are stowed in the dedicated portion of the cargo compartment, Swoop will not stow passenger bags, other cargo or equipment in that area.

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<sup>1</sup> See DOT Letter dated November 9, 2021, extending indefinitely the EADs granted to Swoop's 737-800.

5. Passengers will be able to use their own wheelchairs up until boarding the aircraft, or up to the gate if they prefer. A Swoop employee or contractor will then manually check the wheelchair and the passenger will be given a bag check receipt that includes the passenger's name, flight number, destination and location where the wheelchair will be returned to the passenger upon arrival at their destination. The employee will fold or disassemble the wheelchair in accordance with instructions, pack the wheelchair in the protective bag, and provide it to the ground crew for loading.

Swoop's employees or contracted ground crew will be informed that the bag contains a wheelchair that must be loaded into the designated priority space in the aircraft's cargo compartment. Swoop employees or contractors at the destination airport will be informed that a wheelchair was loaded into the aircraft's designated priority space, and that it must be the first item removed from the cargo compartment and returned to the passenger at the pre-arranged delivery point. All personnel will be trained on these procedures to ensure smooth and efficient handling of passenger wheelchairs, and that wheelchairs are properly folded/disassembled, bagged, loaded, stored, transported and delivered. Swoop will ensure that the wheelchairs are the first item removed from the aircraft cargo hold, and that they are available to passengers upon disembarkation.

6. Swoop will provide this service for up to two wheelchairs or assistive devices and will waive any applicable liability limits for wheelchairs and assistive devices. Furthermore, Swoop will arrange an acceptable temporary replacement wheelchair of like kind and quality (or rental reimbursement, at the passenger's option) in the event a wheelchair is delayed, lost, damaged, or destroyed under these procedures. In the event compensation is required for wheelchairs or assistive devices, Swoop will not limit its liability for the loss or damage to the liability limit stated in the Montreal Convention, or any other treaty or law. Finally, Swoop notes that it will add information to its website explaining to passengers with disabilities that, for the aircraft in question, collapsible manual wheelchairs will be stowed in the cargo hold, in a dedicated location, in accordance with the procedures set forth in the EAD.
7. Swoop's request is in the public interest and will "provide substantially equivalent accessibility to passengers with disabilities than compliance with" 14 C.F.R. §§ 382.67 and 382.123.6. Using Swoop's procedures will allow passengers to get as close to the aircraft as possible with their own wheelchair before checking it, and their wheelchair will be better protected from damage as it will be placed in a protective bag and secured in a dedicated area of the cargo hold.
8. The relief sought by Swoop is not unique, and many other carriers have been granted similar equivalent alternative decisions. Swoop will operate under the conditions imposed by the Department in the EADs previously granted to Swoop for the 737-800, and those granted to our sister company "WestJet" for the 737 MAX aircraft; these conditions include the submission of annual reports to the Department regarding the numbers of complaints received from passengers about the stowage of their wheelchair in this manner and claims for damage to wheelchairs that were stored in the designated cargo space.



In conclusion, as Swoop starts to offer service into the United States using the 737 MAX aircraft, we are undertaking the vital task of accommodating passengers with disabilities; we endeavor to provide accommodations that are equivalent to what is required by applicable rules and regulations. To accomplish this, Swoop will use the experiences, resources, and training of our current employees, and leverage the experience of our sister company, WestJet.

Our request to extend Swoop's EAD for the 737-800 to include the 737-800 Max aircraft will permit Swoop to quickly and efficiently meet our goals of ensuring a consistent travel experience across the WestJet Group of carriers for persons with disabilities travelling with manual folding wheelchairs.

For the reasons stated herein, Swoop respectfully requests prompt consideration of this application.

Please feel free to contact me if you have any questions.

Sincerely,



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Regulatory Analyst  
WestJet  
22 Aerial Place NE